



# TERRITORIAL PLANNING

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## SUMMARY

### The Importance of Audit

Territorial planning is a process, by which all the territory of Lithuania is planned in a complex manner in order to facilitate sustainable and consistent development of the whole State. This process affects a large part of the society, economic and social development of the territory, environment, health of society members, cultural heritage and other areas important to the state and society. When planning the territory, it is important to balance the interests of all the parties; improper territorial planning might lead to the conflict of interest and violate legitimate expectations of the interested parties.

In the period of 2014-2018, more than 12 thousand territorial planning documents were prepared, i.e., on average, 2.4 thousand documents per year. Based on the data contained in the Register of Territorial Planning Documents, 73 thousand documents were registered in total (data as of 31.12.2018).

Territorial planning is a complex and ever developing process, the major regulatory changes of which were introduced in 2014 and are still in force, were directed towards the simplification, acceleration and effectiveness of this process. After creating new territorial planning system, new planning levels were established, site planning principle abandoned, land domain projects removed from the territorial planning document system etc.

In 2020, by adhering to the currently valid territorial planning principles, a new Comprehensive Plan of the Territory of the Republic of Lithuania should be prepared, that should define spatial development aims and functional priorities for the use of territories. Following this strategic document attempts will be made at the reconciliation of various activities: business, agriculture, tourism, recreation, protection of the environment and cultural heritage, creation of infrastructure and more. In order for this document not to become formal, it is necessary to ensure its proper implementation. Therefore, it is very

important to identify current territorial planning challenges, tackle them and not repeat them in the future.

Territorial planning is also attributed to those activities, in which there is a possibility for the manifestation of corruption. Based on the data of the researches performed in the current years, Lithuanian citizens and business representatives attribute the territorial planning process and issues associated with it to corrupt ones<sup>1</sup>. Effective and proper territorial planning process may help minimize the risk of the manifestation of corruption.

By understanding the importance of territorial planning and in order to evaluate, whether this process is effective and ensures the preparation of quality territorial planning documents, the Supreme Audit Institution initiated the territorial planning audit.

## The Objective and Scope of the Audit

The objective of the audit is to evaluate, whether the system in place allows ensuring the effective territorial planning process.

The main issues of the audit:

- Are territorial planning documents prepared in compliance with the set requirements;
- Does state supervision of territorial planning ensure the preparation of quality territorial planning documents;
- Do decision-making institutions dispose reliable information, which is necessary in shaping the territorial planning policy.

Audited entities:

- The Ministry of Environment, which shapes the state policy in the area of territorial planning and coordinates its implementation;
- State Territorial Planning and Construction Inspectorate under the Ministry of Environment, which performs the state supervision of territorial planning;
- National Land Service under the Ministry of Agriculture, which carries out the state supervision of territorial planning when preparing the land use documents of special territorial planning;
- The municipalities of the city of Vilnius, region of Vilnius, city of Kaunas, city of Palanga and region of Klaipėda<sup>2</sup>, which implement state policy in the area of territorial planning when preparing municipality and area level territorial planning documents.

The period audited - 2015-2018. In order to evaluate the changes and compare the data, in some cases, the data of 2014 were used.

Having regard to the fact, that currently a new comprehensive plan of the territory of Lithuania is under preparation, the audit did not assess, whether lower level territorial

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<sup>1</sup>“Lithuanian Corruption Map 2016” (“Lietuvos korupcijos žemėlapis 2016”), “Lithuanian Corruption Map 2018” (“Lietuvos korupcijos žemėlapis 2018”); <https://www.stt.lt/lt/menu/tyrimai-ir-analizes/>.

<sup>2</sup> During the audited period, 5 municipalities were chose in accordance to the selection criteria established by the auditors (see Annex 2 “Scope and Methods of the Audit”).

planning documents are compatible with the higher-level documents and complement each other. We did not evaluate the process of preparing land domain projects either, because since 2014 the provisions of the Law on Territorial Planning are not applicable to them and the special conditions for the use of the land are not a part of the territorial planning documents<sup>3</sup>.

The audit was conducted in accordance to the Public Auditing Requirements and international standards of supreme audit institutions. The scope of the audit and methods applied are described in greater detail in Annex 2 “The Scope and Methods of the Audit” (page 40).

## The Main Results of the Audit

The current process of territorial planning does not ensure that the territorial planning documents would be prepared on time and in good quality. This way, the legitimate expectations of the interested parties are violated and a negative impact is made on private investments to the development of state territories. Furthermore, publicly available data about the status of the implementation of the Comprehensive Plan of the Territory of the Republic of Lithuania are not reliable, therefore, there is no possibility to centrally monitor and analyse the results of the implementation of it and adopt justified decisions in the area of territorial planning.

### 1. Territorial planning documents are prepared without complying to the set requirements

- To ensure that the territorial planning process is performed within the periods prescribed by law, automatic approvals have been introduced in the information systems meant for preparing the territorial planning documents. They are generated automatically, if respective institutions do not submit any decision within the established period.

The audit assessed 101 territorial planning documents. When preparing them, responsible authorities were referred 735 times regarding the issue of planning conditions and 830 times - regarding the coordination of documents. In 34% of cases, the approvals were generated automatically upon requests to issue territorial planning conditions and in 15% of cases - upon requests to coordinate the territorial planning documents.

The authorities had to issue planning conditions for 12% of the documents, however they did not do it - they used the automatic approval. In the later, coordination stage, these authorities submitted their requirements and this way returned the documents to the previous stages of preparation.

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<sup>3</sup> The Parliament adopted amendments of law, by which it is intended to transfer the functions associated with the shaping and reforming plot of lands to the municipalities. The Ministry of Environment highlights, that these amendments that will come into force on 01-01-2020 will strengthen individual functions of region municipalities, which are associated with territorial planning and implementation with the solutions of general and detailed plans of region territories and parts of it, also will allow more effectively solve the issues of the development of engineer and social infrastructure (The Law Amending the Articles 16, 19, 20 and 28 of the Law on Territorial Planning No. I-1120 and the Law Amending the Articles 32 and 40 of the Law on Territorial Planning No. I-446, which were adopted on 30-05-2019).

In order to avoid such situations, the planning organizers, having received the automatic approval, refer to the responsible authorities for the second time regarding the issue of planning conditions and in 92% of cases receive them. Such repeated requests prolong the process of issue of planning conditions up to 5 times.

The most (80%) of automatic approvals for the issue of planning conditions were generated after referring to the National Land Service. By improperly applying the principle “silence means consent”, pre-conditions are created to prolong the process of territorial planning (Sub-Chapter 1.1, page 14).

- The law does not provide that the same authorities would issue the planning conditions and later would coordinate the territorial planning document. Having assessed 101 documents, we established that the authorities, which did not participate in the preparatory stage, in the coordination stage submitted new requirements for 8% of the documents. By applying such practice, the process of preparing the document is prolonged up to 6 times. By returning the documents to previous stages of territorial planning process, the process is not only prolonged, but the administrative and financial burden for all the parties participating in the process is increased (Sub-Chapter 1.2, page 18).
- In order to ensure protection of public interests in the area territorial planning, there is an obligation set by law to publicise all the territorial planning documents being prepared. The public should be provided possibilities to familiarize with the document being prepared, submit proposals and remarks regarding it. After examining planning documents for 103 territories we established:
  - That we could not ascertain, whether the territorial planning documents have been publicised by using the methods defined in the law (announced on the municipality’s website and/or notice boards of the township):
    - ✓ in the preparatory stage - 88% of documents in the Information System for the Preparation of Territorial Planning Documents and the State Supervision of the Territorial Planning Process (TPDRIS) and 100% of documents in the Information System for the Preparation of Land Use Planning Documents (ŽPDRIS);
    - ✓ in the final stage - 12% documents in the TPDRIS and 96% of documents in ŽPDRIS;
  - in 64% of cases, the procedure for publicising the land management projects in rural development was performed after the coordination of the territorial planning document, i.e., when it loses any significance.

The fact that the stage of publicising is important, but is performed irresponsibly, is supported by the complaints received by the State Territorial Planning and Construction Inspectorate, 79% of the complaints are regarding the violations of publicising procedures. By improperly performing such procedures, the legitimate expectations of the interested persons are violated and the legitimated interests of different parties are not coordinated (Sub-Chapter 1.3, page 19).

- The deadlines of the phases in the final territorial planning stage are set by law, however they are not followed: 28% of territorial planning documents are approved with delay of up to 234 workdays, whereas 59% of territorial planning documents are registered with delay of up to 240 workdays. This does not only prolong the process of

territorial planning, but also increases the administrative burden for persons and authorities participating in this process. The prolonged process could make impact on the legitimate expectations of the participants and private investments into the development of territories (Sub-Chapter 1.4, page 21).

## 2. State Supervision of Territorial Planning has Shortcomings

- The law obliges the authorities responsible for the state supervision of territorial planning - State Territorial Planning and Construction Inspectorate and National Land Service – to carry out inspections of the territorial planning documents in the preparatory stage and in the phases of the final state relating to publicising and coordination of the documents, to be based on risk assessment. We have established, that in the period of 2016-2018:
  - In the preparatory stage, the Service did not plan and carry out any inspections of the territorial planning documents. The Inspectorate envisaged these inspections in its activity plans for the reporting period, however it did not apply risk assessment in the selection of the documents;
  - In the phases of final stage of publicising and coordination of the documents, the Inspectorate did not plan and carry out any inspections of the territorial planning documents in the reporting period.

The situation when inspections are not carried out or carried out improperly reduces the possibility to prevent the preparation of poor-quality documents already in early stages. Chapter 2, page 23).

- In the final stage of inspection, the law obliges the Inspectorate and the Service to inspect all the territorial planning documents being prepared. In 2016-2018, the Inspectorate inspected 904 territorial planning documents, while the Service - 2292. In line with the best international practice, the supervision authority should apply the risk assessment criteria and rate economic entities. By carrying-out state supervision of the territorial planning in a continuous manner, the resources are being used ineffectively and administrative burden is increased (Chapter 2, page 23).

## 3. The Information on the Implementation of Measures of the State Comprehensive Plan is Unreliable

- The Government has approved the measures for the implementation of the solutions of the Comprehensive Plan of the Territory of the Republic of Lithuania, and it was envisaged to accumulate the information on their implementation in the information system for monitoring the territorial planning. Furthermore, the Ministry of Environment and municipalities are obligated to monitor the implementation of the State Comprehensive Plan or parts of them, and periodically prepare the monitoring reports. We have established, that:
  - 58% of information submitted about the status of measures for implementing the State Comprehensive Plan solutions is incorrect;
  - The Ministry of Environment and 27% of municipalities in the period of 2015-2018 did not prepare monitoring reports and 45% of municipalities did not enter them to the information system of monitoring the territorial planning.

By entering incorrect information in the information system about the measures for implementing the State Comprehensive Plan and not preparing the monitoring reports, proper conditions are not created for the policy shaper to monitor the changes in the planning area, analyse them and control the processes of this planning more effectively. Furthermore, unreliable and incorrect publicly available information contained in this system shapes a negative public opinion about the implementation of one of the major Lithuanian territorial planning documents (Chapter 3, page 29).

## Recommendations

### For the Ministry of Environment Shaping the Territorial Planning Policy

1. In order to prepare the territorial planning documents on time and in good quality:
  - 1.1. To envisage the measures for decreasing the cases of automatic approvals and ensuring smooth territorial planning process (Audit result 1.1);
  - 1.2. To envisage the measures ensuring the participation of the same authorities in both the issue of the planning conditions and later coordination of the territorial planning document, in order to decrease the number of documents to be corrected after the coordination stage (Audit result 1.2);
  - 1.3. To envisage additional measures ensuring that the process of publicising of documents would follow the set requirements (Audit result 1.3);
  - 1.4. To envisage additional measures, that the authorities would be meeting the set deadlines when approving and registering the territorial planning documents (Audit result 1.4);
  - 1.5. To carry out the state supervision of territorial planning based on risk assessment, in order to minimize administrative burden and resources to be used effectively (Audit result 2);
2. When preparing the new Comprehensive Plan of the Territory of the Republic of Lithuania, to develop the system of indicators for the monitoring the plan's solutions, in accordance to which it would be possible to monitor the changes taking place in the state and evaluate them in economic, social, environmental and cultural aspects (Audit result 3).

The measures for implementing the recommendations and their terms are provided in the report section "The Plan for Implementing the Recommendations" (page 36).